

REMARKS

The Examiner's action dated April August 2, 2006, has been carefully noted. In order to advance prosecution, claims 1-3, 17, 18, 20-22, and 26 have been amended and dependent claims 29-38 have been added. Claims 1-3, 5-6, 17-18, 20-22, 24-26 and 29-38 are now pending, it being noted with appreciation that claims 27-28 have been allowed. Stylistic changes have been made to claim 28 to correct grammatical errors: no change in the meaning of the claim is introduced thereby and the amendments are not to be construed as limitations.

Status of claims 21-25

The Examiner avers that claims 21-25 have been withdrawn. Applicant respectfully finds no support for such withdrawal. Applicant notes that the Restriction Requirement sets forth a listing of the claims into six (6) different purported inventions. Claims 21-25, though dependent from claim 20, were not listed in any of the groupings. Applicant noted this deficiency in footnote 1, page 11, of the Response to the Restriction Requirement filed on December 3, 2004. Correction of record now is respectfully requested by reinstatement of claims 21-25, bearing in mind that they are all dependent from claim 20, which is one of the claims in the elected group.

Rejections

The rejections under 35 U.S.C. §102 and §103 are respectfully traversed and reconsideration thereof is requested.

35 U.S.C. §102

The Examiner rejected claims 1, 2, 3, 5, 17, 18, 20 and 26 as being anticipated by Hutchison (USP 5,218,189). This rejection is respectfully traversed. Hutchison relates to a tag for identifying an item to which it is attached, such a tag including an inductance connected in parallel with a capacitance. The capacitance includes a plurality of individual capacitors, each of a predetermined different capacitance. The individual capacitors are connected to the inductance to establish a resonant circuit having a predetermined resonant frequency. It is appreciated that resonant circuits are integrated circuits.

Claims 1, 17, 18, 20, and 26 have been amended to clarify the distinctions of the invention over Hutchison. Thus, Hutchison describes integrated circuits. In contrast to this, the methods recited in of claims 1 and 20, the tags recited in claims 17 and 26 and the encoder recited in claim 18, are all drawn to one or more predetermined frequency sources, wherein the one or more predetermined frequency sources is other than an integrated circuit.

In paragraphs [0050] and [0051] of the present application, for example, it is explained that "Resonant elements such as ferromagnetic elements have characteristic resonant frequencies, induced by exposing the resonant element to a predetermined excitation frequency", wherein it is possible "to use resonant elements, in a way known to those versed in fields like Nuclear Magnetic Resonance (NMR) spectroscopy or Magnetic Resonance Imaging (MRI)". Hence, ferromagnetic elements are clearly not integrated circuits.

There is no disclosure, or even suggestion, in Hutchison to use frequency sources that are other than a resonant circuit. Therefore, it is respectfully submitted that claims 1, 17, 18, 20, and 26 are patentable over Hutchison. Likewise, new claims 35 to 38 being dependent on claim 26 are believed to be allowable, as well as amended claims 2 and 22.

35 U.S.C. §103

Claim 6 was rejected under U.S.C. §103 in view of Hutchison (US 5,218,189). It is respectfully submitted that the rejection is moot in view of the amendments to claims 1 on which claim 6 depends and hence claim 6 is patentable over Hutchison.

Supplemental comments

Hutchison, referring to prior art thereof, explains that "While the tag ... is similar to prior art tags ..., the

arrangement of the circuit elements differs from the prior art". Hutchison specifically states that there is a required arrangement characteristic of his tags. Indeed, those versed in the art of electrical engineering would appreciate that electrical circuits may be kept within a certain minimal distance of one another in order to prevent interference. Hence, it is appreciated that Hutchison's capacitors must be arranged in a way allowing a minimal distance therebetween. In contrast, paragraph [0029] of the present application, for example, explains that "the frequency sources  $f_1$ ,  $f_3$ ,  $f_4$ ,  $f_6$ ,  $f_8$  and  $f_9$  are spatially unconstrained. That is to say, neither the order in which they appear in the tag nor their relative spatial location is significant. Indeed, all the frequency sources could be spatially superimposed one on top of the other".

There is no disclosure, or even suggestion, in Hutchison to use frequency sources that are spatially unconstrained. Therefore, it is respectfully submitted that new claims 29 to 34 are patentable over Hutchison.

In view of the foregoing, it is requested that all of the objections and rejections on record be reconsidered and withdrawn, that the pending claims be allowed and that the application be found in allowable condition.

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Reply to Office Action of August 2, 2005

If the Examiner has any questions he is invited to contact the undersigned at 202-628-5197.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.  
Attorneys for Applicant

By   
Ronni S. Jillions  
Registration No. 31,979

RSJ:jek  
Telephone No.: (202) 628-5197  
Facsimile No.: (202) 737-3528  
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